



Order under Section 69 Residential Tenancies Act, 2006

Citation: Greencrest Developments v Medeiros, 2026 ONLTB 28101

Date: 2026-04-08

File Number: LTB-L-072365-23

In the matter of: 1214, 2775 DON MILLS RD
NORTH YORK ON M2J3B5

Between: Greencrest Developments Landlord

And

Jose Medeiros Tenants
Wen Xiao Chen

Greencrest Developments (the 'Landlord') applied for an order to terminate the tenancy and evict Jose Medeiros and Wen xiao Chen (the 'Tenants') because:

- the Tenant, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant

This application was heard by videoconference on March 16, 2026. The Landlord's legal representative Eric Steiman, the Landlord's witness Yilena Zaldivai, the Tenant Wen Xiao Chen and the Tenant's legal representative Rebecca Ward attended the hearing.

Deborah Hemsani provided Spanish language interpretation for the Landlord's witness and Lillian Zhao provided Mandarin language interpretation for the Tenant.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
2. The Landlord's application is based on a single N5 notice of termination served to the Tenants on August 30, 2023, with a termination date of September 22, 2023. The N5 notice alleges that the Tenants, their occupants and/or permitted guests have allowed excessive noise to emanate from within their rental unit, which has substantially interfered with the reasonable enjoyment of one of the neighbouring residents.
3. The rental unit is located in an apartment building consisting of 173 rental units.

Landlord's Evidence:

4. Yilena Zaldivai provided oral testimony at the hearing for the Landlord. Ms. Zaldivai is also a tenant of the residential complex and has resided in unit 1114 since November 2022, which is located directly below the rental unit in question.
5. Ms. Zaldivai testified that on or about July 2023, she and her family began to experience noise disturbances from the upstairs unit consisting of jumping, stomping and dropping of heavy objects. The Landlord submitted into evidence a written noise log completed by Ms. Zaldivai and submitted to the Landlord (LL exhibit #1). The noise log is consistent with the dates plead on the N5 notice and contains the following dates and times:
 - July 24, 2023 from 10:00pm to 12:15 am July 25, 2023
 - July 25, 2023 from 10:00pm to 12:30am July 26, 2023
 - July 26, 2023 from 10:00pm to 12:00am
 - July 27, 2023 from 10:00pm to 12:15am July 28, 2023
 - July 28, 2023 from 10:00pm to 12:00am
 - July 29, 2023 from 10:00pm to 1:00am July 30, 2023
 - July 30, 2023 from 10:00pm to 1:00am July 31, 2023.
6. Ms. Zaldivai testified that at the time of the above noted noise complaints that she was pregnant and that the disturbances caused her a lot of stress and affected her and her families normal sleep pattern.
7. After the Landlord's N5 notice was served, Ms. Zaldivai testified that there was excessive noise each night from approximately 10:00pm to 12:45am each day from September 3 – 7, 2023. The noise consisted of stomping and/or objects being dropped. These incidents are the dates the Landlord alleges that the Tenants breached the seven-day voiding period in the N5 notice.
8. On cross-examination, Ms. Zaldivai confirmed that no written complaints were submitted to the Landlord since February 2024.

Tenant's Evidence:

9. The Tenant resides in the rental unit with her 20-year-old child. At the time of the allegations being plead in the application, the Tenant was residing with her other child who was 17 years of age during the year 2023.
10. The Tenant disputed the allegations of noise and stated that during the year 2023, her son was in university and when at home, would typically be working on his computer or playing video games. The Tenant stated that her son would not exercise or work out at home and therefore was unsure as to how her son would be dropping heavy items or jumping on the floor. The Tenant stated that her son would typically go to bed at approximately 11:00pm.
11. The Tenant takes the position that any noise caused or experienced from her neighbour would likely be due to day-to-day living activity such as walking in the unit and stated that the walls in the complex are thin. The Tenants submitted into evidence an audio recording

taken on February 12, 2026 confirming that a baby in the neighbouring rental unit can be heard crying through the walls (TT exhibit #1).

Findings & Analysis:

12. The Landlord's N5 notice of termination is served pursuant to subsection 64(1) of the *Residential Tenancies Act, 2006* (the Act):

64 (1) A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant.

13. Based on the evidence and submissions before the Board, I am not satisfied on a balance of probabilities that the Tenant, their occupant and/or permitted guests have caused excessive or an unreasonable amount of noise to emanate from within the rental unit.

14. As this is the Landlord's application, the onus of proof rests with the Landlord to prove their case on a balance of probabilities. On a balance of probabilities means that the Landlord must show that its version of events is the more probable and should succeed. Saying something is proven on a balance of probabilities simply means that it is more likely than not to have occurred. It means that it is probable, i.e., the probability that some event happened is more than 50%--indeed, 50.1% is sufficient. In all cases, the decision maker must weigh up the evidence and decide which version is most probably true. Consequently, the real truth may never be known. All that can be done is to decide which of the parties has presented the most probable version.

15. Further, as the Supreme Court of Canada stated in *F. H. v. McDougall*, 2008 SCC 53 ("*F. H. v. McDougall*"), at paragraph 46, the civil standard of proof requires that evidence "must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test."

16. In this case, the Tenant disputed the conduct alleged by the Landlord's sole witness and provided audio evidence confirming that normal / day-to-day noise can be heard from the neighbouring rental units. The Landlord did not submit any audio or video recordings to confirm the alleged noise emanating from the rental unit or that the alleged noise was substantial and beyond normal day-to-day activity.

17. I find it more likely than not that the "excessive noise" claimed is in fact day-to-day living by the Tenants, such as walking or moving furniture in their rental unit. As this is a multi-residential complex, it is not unusual for such noise to be heard from the neighbouring rental units.

18. As the Landlord has failed to prove the allegations contained in the notice of termination on a balance of probabilities, the application must be dismissed.

19. This Order contains all the reasons for this matter. No further reasons will issue.

It is ordered that:

1. The Landlord's application is dismissed.

April 8, 2026
Date Issued

Fabio Quattrociochi
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.